

A nonprofit corporation which operates a semiprofessional baseball club as its principal activity is not entitled to exemption from Federal income tax under the provisions of section 501(c)(4) of the Internal Revenue Code of 1954.

Advice has been requested whether a nonprofit corporation, which is operated for the primary purpose of conducting a semiprofessional baseball club, is entitled to exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1954.

The instant corporation was organized as a nonprofit corporation to engage in and promote athletic contests, particularly the game of baseball, for the social entertainment and physical development of its members, to provide training for athletes and to provide exhibitions of the game of baseball. Its sole activity consists of the operation of a semiprofessional baseball club. The income is derived from gate receipts, concessions and score cards. Appropriately 95 percent of the net gate receipts is divided among the players as players' splits or shares pursuant to individual contracts entered into between the corporation and the players.

Section 501(c)(4) of the Code provides in part for the exemption of:

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, * * *.

Section 39.101(8)-1 of Regulations 118, made applicable under the 1954 Code by T.D. 6091, C.B. 1954-2, 47, provides in part that civic leagues entitled to exemption comprise those not organized for profit but operated exclusively for purposes beneficial to the community as a whole, and, in general, include organizations engaged in promoting the welfare of mankind, other than organizations comprehended within section 101(6) of the Internal Revenue Code of 1939 (section 501(c)(3) of the 1954 Code).

In the instant case, the corporation expended almost all of its funds for the purpose of conducting a semiprofessional baseball club, which is ordinarily considered a commercial activity. There is no showing that it engaged in any other activity or that it expended any part of its funds for any other purpose. Although it is shown that the corporation is not organized for profit and that some of its purposes may be considered as beneficial to the community as a whole, it cannot be said that the corporation is operated exclusively for the promotion of social welfare.

Accordingly, it is held that the corporation herein

involved, which operates a semiprofessional baseball club as its principal activity, is not entitled to exemption from Federal income tax under the provisions of section 501(c)(4) of the Internal Revenue Code of 1954 or any other section thereof.